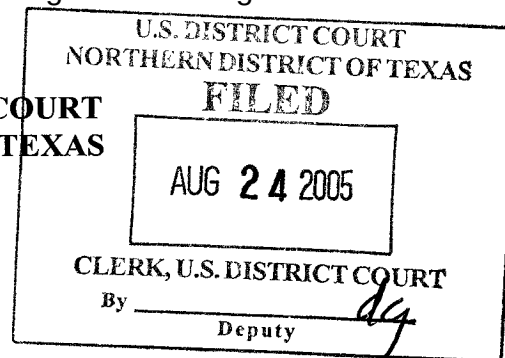


cf. mag
ORIGINAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**



LEOPOLDO G. LISING, #781977,

Petitioner,

v.

**DOUGLAS DRETKE, Director
Texas Department of Criminal Justice,
Correctional Institutions Division,**

Respondent.

§
§
§
§
§
§
§
§
§
§

Civil Action No. 3:05-CV-1088-L

ORDER

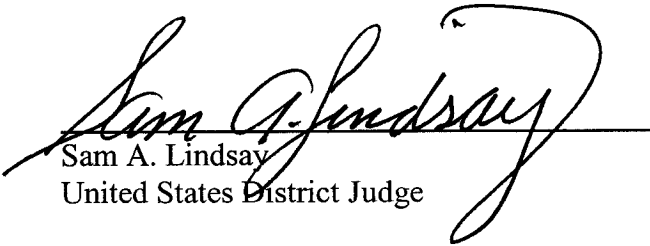
This is a habeas case brought under 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(b), and an order of the court in implementation thereof, this action was referred to the United States magistrate judge for proposed findings and recommendation. On July 28, 2005, the Findings, Conclusions, and Recommendation of the United States Magistrate Judge ("Report") were filed, to which Petitioner filed no objections.

Petitioner seeks to challenge his convictions for sexual assault of a child and aggravated sexual assault of a child. He asserts the following grounds for habeas relief: (1) his guilty plea was involuntary because counsel promised probation in return for a guilty plea; (2) his conviction was obtained in violation of the privilege against self-incrimination; (3) the trial court erred in admitting the testimony of a witness; and (4) counsel rendered ineffective assistance in failing to secure an interpreter. Pet. at 7-8. The magistrate judge found that Petitioner's habeas action was a second or successive habeas petition. As such, the petition must be certified by a panel of the Fifth Circuit Court of Appeals, pursuant to 28 U.S.C. § 2244(b)(3)(A), as amended by the Antiterrorism and

Effective Death Penalty Act of 1996 (AEDPA), before it can be heard in the district court. The magistrate judge concluded, therefore, that the petition should be dismissed for want of jurisdiction.

After making an independent review of the pleadings, file and record in this case, and the findings, conclusions and recommendation of the magistrate judge, the court determines that the findings and conclusions of the magistrate judge are correct. They are therefore accepted as those of the court. Accordingly, Petitioner's petition for habeas corpus is hereby **denied**, and this action is **dismissed without prejudice** to Petitioner's right to file a motion for leave to file a second or successive § 2254 petition with the United States Court of Appeals for the Fifth Circuit pursuant to 28 U.S.C. § 2244(b)(3).

It is so ordered this 23rd day of August, 2005.


Sam A. Lindsay
United States District Judge